STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of AC, AC and TC, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

PENNY CHRISTIAN,

Respondent-Appellant,

and

BRIAN CHRISTIAN,

Respondent.

UNPUBLISHED
December 14, 2001

No. 231350
Bay Circuit Court
Family Division
LC No. 99-006594-NA

Before: White, P.J., and Talbot and E.R. Post*, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the family court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii) (failure to protect children from abuse) and (g) (failure to provide proper care and custody). We affirm.

The family court did not clearly err in finding that § § 19b(3)(b)(ii) and (g) were established by clear and convincing evidence. MCR 5.974(I), *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Petitioner's evidence established that respondent-appellant failed to protect her children from sexual abuse by allowing their father to move back into the home illegally after he was convicted of sexual abuse. The trial court did not err in finding that respondent-appellant did not resolve the dependent personality disorder and that she would be likely to resume a relationship with the father or with another abusive partner. Because the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests, the trial court did not err in terminating her parental rights. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

* Circuit judge, sitting on the Court of Appeals by assignment.

We also find no merit to respondent-appellant's argument that she was denied the effective assistance of counsel. In analyzing claims of ineffective assistance of counsel at termination hearings, this Court applies by analogy the principles of ineffective assistance of counsel as they have developed in the criminal law context. *In re Simon*, 171 Mich App 443, 447; 431 NW2d 71 (1988). A criminal defendant claiming ineffective assistance of counsel must satisfy the two-part test articulated by the United States Supreme Court in *Strickland v Washington*, 466 US 668; 104 S Ct 2052; 80 L Ed 2d 674 (1984). *People v Pickens*, 446 Mich 298, 302-303; 521 NW2d 797 (1994). First, the defendant must show that counsel made errors so serious that counsel was not performing as the "counsel" guaranteed by the Sixth Amendment. *People v Carbin*, 463 Mich 590, 600; 623 NW2d 884 (2001). This requires overcoming the strong presumption that the counsel's performance was sound trial strategy. *Id.* Next, the defendant must show that the deficient performance prejudiced the defense, which requires a showing of a reasonable probability that, but for counsel's error, the result of the proceeding would have been different. *Id.* Though her attorney made a few minor misstatements of the law, these errors were insignificant and did not prejudice respondent. Nor was respondent-appellant prejudiced when her counsel was unable to attend a hearing on appointing counsel for one of the children.

Affirmed.

/s/ Helene N. White
/s/ Michael J. Talbot
/s/ Edward R. Post